

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 199059
ORIGIN IO-14

INFO OCT-01 ISO-00 L-03 DHA-02 AF-10 ARA-10 EA-10
EUR-12 NEA-10 CIAE-00 DODE-00 PM-05 H-01 INR-07
NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06
/115 R

DRAFTED BY IO/HR:FJCRAWFORD:L/UNA:DPSTEWART:BKM
APPROVED BY IO:GADALLEY
IO/IEP:RPOOLE
L:SSCHWEBEL
IO/ML:PWKRIEBEL
USUN:EMEZVINSKY
D/HA:RMAXIM

-----121299 202154Z /64
R 202121Z AUG 77
FM SECSTATE WASHDC
TO USMISSION USUN NEW YORK
INFO USMISSION GENEVA

LIMITED OFFICIAL USE STATE 199059

E.O. 11652: N/A

TAGS: SHUM, UNGA

SUBJECT:32ND UNGA: HUMAN RIGHTS - HIGH COMMISSIONER FOR
HUMAN RIGHTS AND TORTURE

REF: (A) USUN 2490, (B) GEORGETOWN 1795

1. HUMAN RIGHTS COMMISSIONER: DEPT HAS REVIEWED DRAFT
RESOLUTION ON THIS SUBJECT DATAFAXED TO DEPT AND DISCUSSED
IN REF (A) AS AN AD REFERENDUM TEXT.AND HAS THE FOLLOWING
COMMENTS:

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 199059

(A) WE STRONGLY SHARE MISSION'S PREFERENCE FOR ELIMINATING
PREAMBULAR MENTION OF APARTHEID CONVENTION, BUT SINCE
REFERENCE IS COUCHED IN NEUTRAL TERMS, WE CAN ACCEPT IT IF
NECESSARY TO ACHIEVE AGREEMENT ON PRESENT TEXT.

(B) HOWEVER, WE ARE TROUBLED BY THE REFERENCE IN OPERATIVE
PARA 2(C) TO "SUCH OTHER RIGHTS AS ARE ESTABLISHED BY THE

CHARTER OF THE UN AND BY THE GENERAL ASSEMBLY..." THIS LANGUAGE RAISES THE UNNECESSARY AND ERRONEOUS INFERENCE THAT THE GENERAL ASSEMBLY HAS BINDING AUTHORITY TO "ESTABLISH RIGHTS." THIS INFERENCE CAN AND SHOULD BE AVOIDED BY ALTERNATIVE LANGUAGE SUCH AS "RECOGNIZED BY THE GENERAL ASSEMBLY." WE COULD NOT ACCEPT, MUCH LESS PROPOSE, A RESOLUTION THAT SPEAKS LOOSELY OF THE GA ESTABLISHING RIGHTS, WHICH APPARENTLY WOULD MEAN LEGALLY BINDING RIGHTS. IF THIS FORMULATION IS INTENDED TO ENCOMPASS SUCH WIDELY ACCEPTED GENERAL ASSEMBLY ACTIONS AS THE ADOPTION OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, THEN, APPROPRIATELY REPHRASED, IT WOULD PERHAPS BE ACCEPTABLE. (WE SAY "PERHAPS" BECAUSE WHETHER THE UNIVERSAL DECLARATION "ESTABLISHED" RIGHTS IS ITSELF A CONTROVERSIAL QUESTION.) IN THAT CASE, HOWEVER, THE LANGUAGE OF THE RESOLUTION MUST INCLUDE EXPLICIT REFERENCE ONLY TO THE PARTICULAR GENERAL ASSEMBLY DECLARATIONS OR RESOLUTIONS COVERED, IN ORDER TO PREVENT INADVERTENT OR IMPLICIT INCLUSION OF UNACCEPTABLE GA RESOLUTIONS, SUCH AS THOSE SUPPORTING A PURPORTED RIGHT TO ARMED STRUGGLE.

(C) THE REFERENCE TO NIEO IN OPERATIVE PARA 2(C), ALTHOUGH GENERAL, IS NONETHELESS UNACCEPTABLE IN ITS PRESENT FORMULATION. WE DO NOT ACCEPT THAT NIEO ESTABLISHES LEGAL RIGHTS OR THAT INDIVIDUALS OR STATES HAVE A LEGAL RIGHT TO THE ESTABLISHMENT OF THE NIEO, AS THIS LANGUAGE CAN BE READ TO LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 199059

IMPLY. MOREOVER, SINCE "RIGHTS" ARE NOT DISEMBODIED BUT FIND THEIR BASIS IN A CONCRETE TEXT, WE FORESEE THAT SOME MAY INTERPRET THE LINK BETWEEN GA RECOGNITION OF RIGHTS AND THE ESTABLISHMENT OF NIEO AS NECESSARILY REFERRING TO THE RESOLUTIONS OF THE 6TH SPECIAL SESSION AND THEREFORE AS MEANING ACCEPTANCE OF THE RIGHT, FOR EXAMPLE, TO EXPROPRIATE FOREIGN PROPERTY WITHOUT COMPENSATION, OR THE RIGHT OF VICTIMS OF "NEO-COLONIALISM" TO REPARATIONS. CREATING THE OPPORTUNITY FOR THIS SORT OF DANGEROUS INTERPRETATION STRIKES US AS UNNECESSARY (GIVEN EXISTING REFERENCE IN DRAFT TO ECONOMIC RIGHTS OF PEOPLES) AND ON BALANCE HARMFUL TO PROSPECTS FOR NEGOTIATING ACCEPTABLE TEXT. NOR ARE WE CONVINCED THAT IT WOULD ENHANCE HIGH COMMISSIONER'S EFFECTIVENESS IN CAUSE OF HUMAN RIGHTS GENERALLY TO REQUIRE HIM TO GIVE "SPECIAL ATTENTION" TO "CRITICAL IMPORTANCE" OF "EFFECTIVE ENJOYMENT" OF NIEO-RELATED "RIGHTS." ACCORDINGLY YOU SHOULD CONTINUE VIGOROUSLY TO SEEK DELETION OF THIS NIEO REFERENCE. IF NECESSARY, HOWEVER, YOU MAY SUGGEST THAT A SOMEWHAT LESS TROUBLESOME FORMULATION WOULD REFER TO RIGHTS OF INDIVIDUALS CONSISTENT WITH THE OBJECTIVES OF A NIEO.

D) REGARDING APPROACHES TO MOSCOW AND BELGRADE
RECOMMENDED REF (B), WE BELIEVE IT WOULD BE PREMATURE TO
DO SO AT THIS TIME. WE BELIEVE THAT USUN SHOULD STRONGLY
ENCOURAGE COSTA RICANS AND OTHER INTERESTED PARTIES IN NEW
YORK TO CARRY THE PROPOSAL AS FAR AS POSSIBLE IN ACCEPTABLE
DIRECTIONS BEFORE WE INDICATE A WILLINGNESS TO STEP IN
BILATERALLY.

2. TORTURE: BEFORE DECIDING TO LOBBY IN CAPITALS FOR
LATEST TEXT OF TORTURE RESOLUTION DISCUSSED IN REF (A)
AND DATA FAXED TO DEPT ON AUGUST 4, DEPT WILL FIRST NEED
USUN'S ASSESSMENT OF REACTION OF WEO AND OTHER MISSIONS TO
NEW TEXT AND SOME SENSE AS TO HOW WIDELY ACCEPTABLE THE
DRAFT RESOLUTION MAY BE IN ITS REVISED FORM. IN SUBSEQUENT
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 STATE 199059

DISCUSSIONS OF THIS DRAFT TEXT, YOU SHOULD SUBSTITUTE
"PREVENTED" FOR "CONTROLLED" IN OPERATIVE PARA 1(D) SO THAT
BEGINNING OF SENTENCE READS: "ON THE BASIS OF A COMPARA-
TIVE ANALYSIS OF THE LEGAL AND ADMINISTRATIVE STRUCTURES
OF GOVERNMENTS IN WHICH TORTURE IS EFFECTIVELY
PREVENTED..." CHRISTOPHER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT DRAFT, HUMAN RIGHTS, INSTRUCTIONS, RESOLUTIONS, ATROCITIES
Control Number: n/a
Copy: SINGLE
Sent Date: 20-Aug-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE199059
Document Source: CORE
Document Unique ID: 00
Drafter: FJCRAWFORD:L/UNA:DPSTEWART:BKM
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770302-0005
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770840/aaaabhkf.tel
Line Count: 142
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 29b28457-c288-dd11-92da-001cc4696bcc
Office: ORIGIN IO
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 USUN NEW YORK 2490, 77 GEORGETOWN 1795
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 14-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1537674
Secure: OPEN
Status: NATIVE
Subject: 32ND UNGA: HUMAN RIGHTS - HIGH COMMISSIONER FOR HUMAN RIGHTS AND TORTURE
TAGS: SHUM, XX, US, UNGA
To: USUN NEW YORK
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/29b28457-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009